NOMINATIONS FOR DISTRICT OF COLUMBIA COURTS

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

NOMINATIONS OF JOHN A. TERRY TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS, AND STEFFEN W. GRAAE AND GEORGE W. MITCHELL, TO BE ASSOCIATE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

JUNE 23, 1982

Printed for the use of the Committee on Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE
12-142 O WASHINGTON : 1982

S401-86

COMMITTEE ON GOVERNMENTAL AFFAIRS

WILLIAM V. ROTH, JR., Delaware, *Chairman*

CHARLES H. PERCY, Illinois
TED STEVENS, Alaska
CHARLES McC. MATHIAS, JR., Maryland
JOHN C. DANFORTH, Missouri
WILLIAM S. COHEN, Maine
DAVID DURENBERGER, Minnesota
MACK MATTINGLY, Georgia
WARREN B. RUDMAN, New Hampshire
HARRISON "JACK" SCHMITT, New Mexico

THOMAS F. EAGLETON, Missouri
HENRY M. JACKSON, Washington
LAWTON CHILES, Florida
SAM NUNN, Georgia
JOHN GLENN, Ohio
JIM SASSER, Tennessee
DAVID PRYOR, Arkansas
CARL LEVIN, Michigan

JOAN M. MCENTEE, *Staff Director*
MARGARET HECHT, *Professional Staff Member*
IRA S. SHAPIRO, *Minority Staff Director and Chief Counsel*

(II)

CONTENTS

	Page
Opening statement of Senator Mathias	1

WITNESSES

WEDNESDAY, JUNE 24, 1982

John A. Terry, nominee to be an associate judge of the District of Columbia Court of Appeals	2
George W. Mitchell and Steffen W. Graae, nominees to be associate judges of the Superior Court of the District of Columbia	9

ALPHABETICAL LIST OF WITNESSES

Graae, Steffen:	
Testimony	9
Biographical information and responses to prehearing questions	18
Mitchell, George W.:	
Testimony	9
Biographical information and responses to prehearing questions	14
Terry, John A.:	
Testimony	2
Biographical information and responses to prehearing questions	4

NOMINATIONS FOR DISTRICT OF COLUMBIA COURTS

WEDNESDAY, JUNE 23, 1982

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The committee met at 9:15 a.m., in room 4200, Dirksen Senate Office Building, Hon. Charles McC. Mathias, Jr., presiding.

Present: Senator Mathias.

OPENING STATEMENT OF SENATOR MATHIAS

Senator MATHIAS. The committee will come to order.

This morning the Committee on Governmental Affairs will hear testimony on three nominations to the courts of the District of Columbia.

On Wednesday, May 5, President Reagan nominated Mr. John A. Terry to be associate judge in the District of Columbia Court of Appeals, and on May 20 he nominated Mr. Steffen W. Graae and Mr. George W. Mitchell to be associate judges of the Superior Court of the District of Columbia.

Each of these nominees has undergone the process by which we examine their qualifications, and I want to express the appreciation of the entire committee for the cooperation that they have given to the committee staff during this process. These nominations have been the subject of a careful review.

In 1978 the committee adopted rule VIII which contains a requirement which must be met on all confirmations subject to this committee's evaluation. The rule requires the committee to conduct an inquiry into the qualifications of the nominee to serve in the position for which he has been nominated. The committee believes that this rule insures a thorough yet reasonable review of a nominee's background and qualifications. I will place in the record at this point the specific steps that have been covered in this process.

[The information referred to follows:]

First, the nominees were asked for and supplied detailed information on their education, employment, and professional achievements as well as complete financial statements and tax returns for the last 3 years.

The financial statements and biographical information on each nominee are all available for inspection by the public in the committee office.

Without objection, the biographical information on each nominee will be placed in the record as a part of this hearing.

The committee reviewed the nominees' biographical and financial information as well as reports submitted on each nominee by the Office of Judicial Ethics. Following that, as chairman, I reviewed the FBI reports prepared on each nominee and Senator Eagleton, as the ranking minority member, also reviewed these same reports.

Finally, each nominee was individually interviewed by designated committee staff members who then submitted a report to members of the committee containing all relevant information concerning each nominee's qualifications for the position to which he has been nominated.

Senator MATHIAS. I would like to start this morning by calling Mr. John A. Terry, who has been nominated to be an associate judge of the Court of Appeals, to come to the witness table. In accordance with the committee practice, Mr. Terry, I would ask you to remain standing and take an oath before you testify.

TESTIMONY OF JOHN A. TERRY, NOMINEE TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS

Senator MATHIAS. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth so help you God?

Mr. TERRY. I do.

Senator MATHIAS. These questions are in no sense personal. These are questions that will be asked of each nominee who appears not only this morning but at any time before this committee.

Mr. Terry, is there anything of which you are aware in your background, professional or personal, which might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. TERRY. No; there isn't, Senator. The only thing I would mention is that, as you know, for the past 13 years I have been Chief of the Appellate Division of the U.S. Attorney's Office here in the District of Columbia. So if any case would come before me as a judge that was pending in the office while I was in the office, I would, of course, recuse myself from any consideration of that case.

Senator MATHIAS. Well, I think that, of course, would be proper and necessary.

Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging your duties as a judge in the court to which you have been nominated?

Mr. TERRY. No; I don't, sir.

Senator MATHIAS. If confirmed by the Senate, would it be your intention—and I know that our ability to see into the future is always limited—but would it be your intention, insofar as you can determine now to serve the full 15-year term of office?

Mr. TERRY. Absolutely.

Senator MATHIAS. Have you ever been involved in civil litigation or administrative or legislative proceedings of any kind either as a plaintiff, defendant, respondent, witness or party which directly or indirectly related to the office to which you have been nominated?

Mr. TERRY. No; I have not.

Senator MATHIAS. Have you or any member of your immediate family ever been involved in any controversy or litigation with tax authorities of the Federal Government, the District of Columbia, or any State or local government?

Mr. TERRY. No; none whatsoever.

Senator MATHIAS. Would you give the committee the benefit of your own background, something about your education and employment experience, and highlight those points that in your own mind qualify you to be a judge of the Court of Appeals.

Mr. TERRY. Well, as I mentioned earlier, Senator, for the last 13 years, I have been Chief of the Appellate Division of the U.S. Attorney's Office, and in that capacity, I have appeared regularly and supervised other attorneys who appear before that court. I have argued a number of cases myself, and I have dealt with the court on a daily basis. I feel I know the court perhaps as well as any attorney in this city.

Prior to that, I was a regular line assistant U.S. attorney in the office, and as an assistant U.S. attorney, I tried cases both in the U.S. District Court and in what was then the Court of General Sessions. I also argued cases before the U.S. Court of Appeals and the District of Columbia Court of Appeals. My experience there extended over 5 years.

In between the time when I was a regular Assistant U.S. attorney and my becoming Chief of the Appellate Division, I was, for approximately 1 year, in private practice. During that period, I appeared regularly before the Court of General Sessions, the U.S. District Court, and both courts of appeals and handled a number of trials and appeals.

Prior to coming into the U.S. Attorney's Office, I worked here in the Senate for a couple of committees, the so-called Labor Rackets Committee which flourished in the late fifties, and the Senate Permanent Subcommittee on Investigations, which is a subcommittee of this committee and is still in operation.

Senator MATHIAS. If that won't ruin your chances for confirmation, I don't know what will.

Mr. TERRY. I can't help it.

Senator MATHIAS. Now, as you point out, you have had extensive experience in appellate work and, prior to that, in general trial practice. How important do you believe it is that a judge on the Court of Appeals should have had some trial experience of this kind?

Mr. TERRY. I think it is virtually essential. An appellate judge reviews the records of trials day after day, and if he or she does not have the perspective of having been in trial, it would sometimes be difficult to get the full flavor of what might have been going on and to consider whether, in the context of the whole trial, an alleged error was really of any significance.

Senator MATHIAS. It has been written of Lord Nelson that one of his most interesting and unusual characteristics was the time he spent with the midshipmen in the British Navy educating them on the art of seamanship. Do you see any analogy between the role of an admiral and the midshipmen and the role of a judge and young lawyers coming before the bench? What do you feel should be the role of a judge with respect to training young lawyers?

Mr. TERRY. I think that a judge, by comments in the courtroom, can certainly suggest that a young lawyer, or a not-so-young lawyer, might be well advised to pursue another argument, let's say. More importantly, I think that both a judge and an experienced lawyer have a professional obligation to participate in the training of young lawyers—new lawyers. Some judges teach in law school; some get involved in continuing legal education programs presented by the bar associations. The American Bar Association, for example, conducts a National Institute on Appellate Advocacy. I took part in that 2 years

ago when it was here in Washington, and there were several judges, appellate judges and trial judges, who were also involved in that program. I enjoy that and I would like to continue doing that kind of thing if I can.

Senator MATHIAS. And I would hope you wouldn't neglect the opportunities that are available on the bench. I recall, as I suspect you do, Judge Steadman Prescott in Montgomery County. He was an outstanding educator on the bench, in his courtroom demeanor, in suggestions he gave to young lawyers, including myself. It was an educational experience to try a case in his court. He was a great contrast with some of the judicial tyrants who just browbeat young lawyers and don't really add anything to their legal experience, except a dislike for judges. I would hope that Judge Prescott's example would be more prevalent, as it is both an inspiration to young lawyers and an educational assistance.

Mr. TERRY. I would hope I turn out to be a judge in the manner of Judge Prescott rather than those you refer to as judicial tyrants. I can recall with great pleasure and affection several judges before whom I appeared early in my career who performed that same function. I never had the privilege of appearing before Judge Prescott.

Senator MATHIAS. Thank you, Mr. Terry, and congratulations and best wishes in the years ahead.

Mr. TERRY. Thank you.

[Biographical and financial information submitted by Mr. Terry follows:]

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)

Answer. John Alfred Terry.

Question 2. Address: List current residence address and mailing address.

Answer. Address: 722 A Street, S.E., Washington, D.C. 20003.

Question 3. Date and Place of Birth.

Answer. May 6, 1933, Utica, New York.

Question 4. Marital Status: (Include maiden name of wife or husband's name.)

Answer. Single.

Question 5. Names and ages of children.

Answer. Not applicable.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer. Undergraduate—Yale University, 1950–1954. Degree: B.A. (magna cum laude), 1954.

Graduate—Yale University, 1954–1955 (graduate work in English). Degree: None.

Professional—Georgetown University Law School, 1957–1960. Degree: J.D., 1960.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. 1969 to date—Chief, Appellate Division, United States Attorney's Office for the District of Columbia, Washington, D.C.

1968–1969—Partner in two-person law firm, Terry & Bennison, Suite 935, Washington Building, Washington, D.C.

1967–1968—Attorney, National Commission on Reform of Federal Criminal Laws, Washington, D.C.

1962–1967—Assistant United States Attorney for the District of Columbia, United States Attorney's Office, Washington, D.C.

1960–1962 (except as noted below)—Research Assistant, Senate Permanent Subcommittee on Investigations, Washington, D.C.

[For approximately 2 months during the summer of 1962, I served as Assistant Bill Clerk of the United States Senate, substituting temporarily for the regular Assistant Bill Clerk, who was on leave of absence.]

[For approximately 1 month during 1961, I was employed as an attorney in the Organized Crime and Racketeering Section of the Criminal Division of the Department of Justice. I felt there after a short time and returned to the Senate Permanent Subcommittee on Investigations.]

1957–1960—Research Assistant, Senate Select Committee on Improper Activities in the Labor or Management Field, Washington, D.C.

1955–1957—Book Room Attendant, Library of Congress, Washington, D.C.

Question 8. Government Experience: List any experience in, or association with Federal, State or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. See Item 7, above.

Question 9. Business Relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.

Answer. I was a partner in a law firm for approximately one year in 1968 and 1969. The name of the firm was Terry & Bennison. My partner was John C. Bennison, who is now counsel for the American Society of Travel Agents, Washington, D.C.

At about the same time, I was a director of the Chesapeake Securities Corporation, a corporation wholly owned by my law partner, John C. Bennison, and a friend, Jack J. Goehring, for the purchase and sale of real estate for investment. I received no compensation for being a director, and I performed no official function whatever. I do not know whether the corporation is still in existence.

These are my only affiliations with any business enterprise or similar institution.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Answer. District of Columbia Bar, Washington, D.C.

Since 1977 I have been a member of the Board of Governors of the D.C. Bar, having been elected in 1977 and reelected in 1980 in elections conducted among all the members of the Bar. As a Board member I have served on three or four committees.

I also served a 2-year term (1976–1978) as a member of the Steering Committee of Division 5 of the Bar (Criminal Law and Individual Rights).

American Bar Association, Chicago, Illinois.

Bar Association of the District of Columbia, Washington, D.C. I was active in the Young Lawyers Section of the Bar Association during the late 1960's and served on two or three committees.

Federal Bar Association, Washington, D.C. (no longer a member).

Delta Theta Phi Law Fraternity (during law school).

Elizabethan Club, Yale University, New Haven, Connecticut. I was elected to membership in the Elizabethan Club, a social and literary organization, while an undergraduate at Yale and served as its Treasurer during my senior year. Membership is for life.

St. Mark's Episcopal Church, Washington, D.C. I have been a member of St. Mark's Church for approximately 15 years and have served on several committees and in many offices, including that of Senior Warden (1979–1981), the highest elected office for a lay person in the parish.

Episcopal Diocese of Washington, D.C. By appointment of the Bishop, I served from approximately 1977 to 1982 as a member, and later as chairman, of the Task Force on Disciplinary Canons. In January 1982 the Task Force submitted its report to the Diocesan Convention and thereupon went out of existence.

In addition, I am currently a member of two diocesan bodies, the Ecclesiastical Court of Appeals and the Diocesan Commission on Liturgy and Music.

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Answer. During the late 1950's and early 1960's (until I came under the Hatch Act in 1962) I was active in Republican Party affairs in Montgomery County, Maryland, mainly as a member of the Young Republicans. During that period I served twice as an election official at my local precinct, and for a year or two I was a Republican precinct chairman.

From time to time I have made small contributions to the campaigns of various political candidates, most of them personal friends who happened to be running for office, as follows:

Richard L. Thornburgh, candidate for Governor of Pennsylvania (1978), $95.

Jim Guy Tucker, candidate for Senator from Arkansas (1978), $90.

James W. Symington, candidate for Representative (1972 and 1974) and Senator (1976) from Missouri, $25 (1972); $25 (1974); $50 (1976).

Louise Gore, candidate for Governor of Maryland (1974), $15.

In addition, in 1974, 1975, and 1976, I contributed a total of $80 to the Republican Party general campaign fund in Montgomery County, Maryland.

Question 12. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Answer. My undergraduate education at Yale was financed primarily through academic scholarships. I also received a partial scholarship, based on academic achievement, during my last year of law school.

In my senior year at Yale I was elected to Phi Beta Kappa.

In 1971 I received a Department of Justice Special Achievement Award.

In 1977 I received the Harold J. Sullivan Award, given annually by the Assistant United States Attorneys Association of the District of Columbia to an outstanding Assistant United States Attorney.

Question 13. Published Writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. My only published writing is a Case Note, written while I was in law school, which appeared in the Fall 1960 issue of the Georgetown Law Journal.

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. None.

Question 15. Selection: a. Do you know why you were chosen for this nomination by the President?

b. What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a). No.

(b). My experience as a litigating appellate attorney for the past thirteen years, my thorough familiarity with the District of Columbia court system, particularly the District of Columbia Court of Appeals, and my general, broad based knowledge of District of Columbia and Federal law.

B. FINANCIAL DATA (RETAINED IN COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. Yes.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. No.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government services?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. None.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer: None of which I am aware.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. For the past thirteen years I have been counsel of record for the United States in every criminal appeal (with two or three exceptiins) that has come before the District of Columbia Court of Appeals in which the United States has been a party.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. None. However, as a member of the Board of Governors of the D.C. Bar, I have voted to authorize various divisions of the Bar to submit comments on pending legislation to appropriate Committees of Congress and the City Council. Under Bar rules, such comments do not reflect the views of the Bar or the Board of Governors, but only the views of the divisions submitting them.

I have also been a signatory of a written submission to the District of Columbia Court of Appeals (along wtih several other persons, most of whom were past or present members of the Bar's Board of Governors) in support of certain proposed changes in the Court's rules governing the Bar, which were not adopted.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. If I find a conflict of interest in any case that comes before me as a judge, I will of course disqualify myself from all consideration of such a case and will not participate in any way in deciding it. In particular, I will take no part in the decision of any criminal case brought by the United States which was pending while I was in the United States Attorney's Office.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any Federal, State or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3.—Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. No.

Question 4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. I know of nothing that is not already disclosed by this questionnaire.

F. QUESTIONS CONCERNING STATUTORY QUALIFICATIONS, PURSUANT TO DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970, AMENDED

Question 1. Are you a citizen of the United States?

Answer. Yes.

Question 2. Are you a member of the bar of the District of Columbia?

Answer. Yes.

Question 3. Have you been a member of the District of Columbia bar for at least 5 years? (Give year in which you became a member.)

Answer. Yes, since 1960.

Question 4. If the answer to No. 3 is "no,". . . .

Answer. [Not applicable.]

Question 5. Are you a bona fide resident of the District of Columbia?

Answer. Yes.

Question 6. Please state the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last 5 years.

Answer. I have lived at 722 A Street SE., in the District of Columbia, since February 1975.

Question 7. Have you maintained an actual place of abode in such area for at least 5 years?

Answer. Yes. (See Item 6, above.)

Question 8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nomination Commission?

Answer. No.

Question 9. Have you been a member of either Commission within the last 12 months?

Answer. No.

G. STATUS OF TAX LIABILITY

Question 1. Would you state for the record whether all your taxes, Federal, State and local, are current as of this date?

Answer. Yes, they are.

Question 2. Are you or any member of your immediate family presenely involved in any controversy or litigation with tax authorities of the Federal government, the District of Columbia, or any State or local governments?

Answer. No.

Question 3. Have you or any member of your immediate family ever been involved in such controversy or litigation at any time in the past with any Federal, District of Columbia, State or local government?

Answer. No.

Question 4. Have any tax bill liens, either Federal, District, State or local been filed against you or against any real property or personal property which you own either individually, jointly, or in partnership?

Answer. No.

Question 5. Have your taxes always been paid on time?

Answer. Yes, with one exception. My Federal income tax return for 1969 was filed approximately 6 weeks after the April 15 deadline. I obtained an extension from the Internal Revenue Service, and I filed the return within the extended time.

AFFIDAVIT

I, John A. Terry, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

JOHN A. TERRY.

JUNE 3, 1982.

[SEAL]

DEBRA L. MARKEY,
Notary Public.

(My commission expires 2/14/83.)

Senator MATHIAS. Mr. Graae and Mr. Mitchell now.

TESTIMONY OF GEORGE W. MITCHELL AND STEFFEN W. GRAAE, NOMINEES TO BE ASSOCIATE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Senator MATHIAS. Will you raise your right hands.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth so help you God?

Mr. MITCHELL. I do.

Mr. GRAAE. I do.

Senator MATHIAS. Let me ask each of you the questions that you have just heard me propound to Mr. Terry.

Is there anything of which you are aware in your background, professional or personal, which might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. MITCHELL. I know of none.

Mr. GRAAE. No, Senator, I don't either.

Senator MATHIAS. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging your duties as a judge in the court to which you have been nominated?

Mr. MITCHELL. None whatsoever, sir.

Mr. GRAAE. No.

Senator MATHIAS. If confirmed by the Senate—and I don't want to make that a tentative question, I have every confidence that that will occur—but if confirmed by the Senate, would it be your intention insofar as you can see into the future to serve the full 15-year term of office?

Mr. MITCHELL. I do intend to serve the full term, Senator.

Mr. GRAAE. Yes, Senator, I would intend to serve 15 years as well.

Senator MATHIAS. Have either of you ever been involved in civil litigation or administrative or legislative proceedings of any kind either as plaintiff, defendant, respondent, witness or party in interest which is directly or indirectly related to the office to which you are nominated?

Mr. MITCHELL. I have not, Senator.

Mr. GRAAE. No, Senator, I have not.

Senator MATHIAS. Have either or you or any member of your immediate families ever been involved in any controversy or litigation with tax authorities of the Federal Government, the District of Columbia, or any State or local governments?

Mr. MITCHELL. I have not, Senator.

Mr. GRAAE. No, Senator, I have not.

Senator MATHIAS. Mr. Mitchell, would you please tell the committee a little bit about your educational and professional experience and note with some emphasis those parts of your life that you feel qualify you to become a judge.

Mr. MITCHELL. Senator, I grew up in Alabama, where I received my first education and high school there. I came to Washington, D.C., to Howard University, and graduated from Howard University, receiving a bachelor's degree from that institution in 1957. I entered the law school at Howard University after having graduated from Howard University. After having gone through law school, I entered

graduate school at American University. I received an LL.B. from Howard University in law.

After graduating from law school I worked at the U.S. Post Office, and from there I went to the Veterans' Administration, where I was a claims adjudicator, wherein I would determine appropriate claims against the Government by veterans. From there I went to the Solicitor's Office for the Department of Labor and there I worked in the Davis-Bacon section of that department, wherein I would determine the appropriate wages throughout the United States, the prevailing wage rates throughout the United States on Government projects. Upon leaving the Labor Department I entered private practice in August 1962, where I have been to the present day.

During the course of my career I started out practicing almost exclusively criminal law. So I got quite a bit of experience there. I would often try criminal cases, sometimes two or three a day. I have tried thousands of criminal litigations. For the first 10 years of my legal career I concentrated in the criminal practice. After about 10 years I went into the civil end of the law and I more or less concentrated in that since then, and in the last 5 years or so I have concentrated in medical malpractice.

As a result of this experience I have been in all the courts of the District of Columbia, including those that dealt from disorderly conduct to the highest felonies, and also I have been counseled the most complicated civil matters. Most of my experience has been on the trial level.

I have also done appellate work. I have represented people in the U.S. Court of Appeals and in the D.C. Court of Appeals. I have appeared in each of those courts on several occasions, wherein I have prepared the briefs and made the arguments.

I feel that this experience will enable me to serve well as a judge on the Superior Court bench.

Senator MATHIAS. Mr. Graae, why do you think you are qualified to be a judge?

Mr. GRAAE. Yes, Senator, my background. I graduated from Yale University in 1962. I thereupon went to Oxford University for 2 years and took a degree in philosophy, politics and economics, a master's degree. At that point I moved to Washington and I had a number of different positions, I think the most significant of which from the point of view of my legal career was serving on the staff of the National Commission on the Causes and Prevention of Violence. I think that that was the experience that prompted me to go to law school. I went to law school in 1970, after having worked in Washington in a variety of jobs for about 6 years. I graduated in 1973 from Georgetown University Law Center.

At that point, Senator, I had the great pleasure of serving as a counsel to a committee on the superior court chaired by Judge John Garrett Penn that was concerned with the Federal Rules of Evidence and whether the District of Columbia should seek inclusion under the Federal Rules of Evidence legislation that was pending here. When I completed my service as counsel to the committee, I finished out the term of Judge Penn's clerk who resigned early.

After that I immediately went into private practice, and for the first 4 years or so of that practice I handled almost exclusively

criminal caseload, representing criminal defendants in the Superior Court of the District of Columbia, the U.S. District Court, and the D.C. Court of Appeals on appellate matters. In the last 4 years my practice has shifted over to predominantly civil practice, and I have handled a wide variety of cases, most of them oriented toward litigation.

So I have had quite a bit of experience as a trial attorney in both the criminal and civil area in our two trial courts in this city. I have also had a not substantial but a reasonable appellate experience in both the U.S. Court of Appeals and the D.C. Court of Appeals.

Senator, in the course of my law practice I have written a number of books which I think have been of considerable value to the legal profession and to the judges of this city, among them an annotation of the District of Columbia case and statutory law to the Federal Rules of Evidence, a book that attorneys find very useful, particularly those attorneys who have to practice in the two-court system where the Federal Rules of Evidence are applicable in U.S. District Court and the common law and D.C. Statutory Rules are applicable in superior court. It is a book that I have seen on many a judge's bench.

Senator, I have also in the past several years been extremely active in the District of Columbia Bar, particularly with respect to one area which is of great concern to me, namely the quality of criminal defense representation. Back in 1975, I directed a study which led to a number of recommendations as to how the system for criminal defense representation could be improved in the District of Columbia, and I have been active since that time in various efforts to make that bear fruit.

Finally, I think one other experience I could point to is that, shortly after I left Judge Penn as a law clerk and shortly after completing the study on the Criminal Justice Act system, I served a year as adjunct professor at Georgetown University Law Center where my responsibilities were to supervise third-year law students in the handling of misdemeanor cases in the superior court. I also conducted weekly classes in trial tactics in criminal law with these students, this all taking place at the same time as I was carrying out my law practice.

Senator, I think I have a blend of practical and scholarly experience which would suit me well for the position to which I have been nominated.

Senator MATHIAS. Now from what each of you has said it is apparent you both have substantial experience in grassroots legal practice. You have each tried a variety of cases. Do you think that this general practice—particularly your local experience in the District of Columbia—will be of assistance in performing your duties on the superior court? Mr. Mitchell.

Mr. MITCHELL. Yes, sir. I think that the practical experience that I have had has given me an insight on the problems in the District of Columbia that I could not have gotten without having had that experience. During the course of my career I have dealt intimately with the citizens of the District of Columbia and I am familiar with their problems, some of them, and I feel that this will enable me to be a better judge if I am confirmed by the Senate.

Senator MATHIAS. Mr. Graae.

Mr. GRAAE. Senator, I don't think there is much I could add to what Mr. Mitchell has said other than to observe that indeed I think that the experience of litigation and the experience of being immersed in the problems of clients, criminal defendants, civil parties, is very important experience to have because when you are sitting on the other side of the bench you have some appreciation of the problems of citizens and litigants, and, I think, you have a very sharp appreciation for the importance it has for parties and defendants to feel they are being treated with dignity by the court, that their cause is as important as anybody else's cause, and that they will have a fair hearing. I think that experience of representing people makes you acutely aware of the necessity of imparting that sense to those people in a courtroom.

Senator MATHIAS. I might observe that I agree with both of you. We sometimes see examples of, say, a brilliant academic or brilliant administrator who is elevated to the bench and is successful. But it has always seemed to me that it must take a great effort on the part of these judges to make up for those years of experience in the courtroom and to understand exactly what is happening before their eyes without the sense of having personally experienced it many times over.

Now we often talk about judicial temperament, and I suspect that any good courtroom lawyer recognizes judicial temperament in the presiding judge if it is there, or perhaps even more so if it is not there. But it is hard to define.

Mr. Mitchell, how would you define judicial temperament?

Mr. MITCHELL. I would define it as devoiding oneself of one's own ego and dealing with other people's problems at a particular time. I think the most important thing about having a proper temperament is not being an advocate, or the star of the show, so to speak. If one is able to deal with other people and reflect a sense of dignity for other people, I think if a judge does that, you would automatically get good temperament from that judge. If he performs his duties in the proper manner, with the proper respect for other people, I think one would promote good judicial temperament.

So I guess in effect I am saying that judicial temperament requires some good common sense and an absence of arrogance or the tendency to boast of one's authority.

Senator MATHIAS. You may know that at one time Thomas Jefferson objected to judges wearing robes. But in a way that black judicial robe simply obliterates the personality of the judge and neutralizes his individual characteristics so he sits there as a personification of justice and not as someone who is inflamed by his own passions.

Mr. MITCHELL. Yes, sir.

Senator MATHIAS. Mr. Graae, would you respond?

Mr. GRAAE. Yes, Senator. I had the great privilege of serving as a law clerk to Judge John Garrett Penn while he was on the D.C. Superior Court, and I have always taken Judge Penn as my model for what I think judicial temperament is. He always was and always is very patient in court. He is courteous to the parties. I have never seen anyone leave his courtroom, winner or loser, feeling that he was in any way mistreated or that in any way, he did not have a full opportunity to make his case before the judge. So I think that, having observed him, one of the most important characteristics I think of a good judge is the

ability to let everyone have his say, to impart a sense of dignity to the parties and the attorneys. In other words, to have a proceeding where ultimately everyone goes away with a feeling that this is a dignified proceeding where each has been treated with fairness.

Senator MATHIAS. Well, I don't think I could disagree with that definition of judicial temperament. But let me ask you, not facetiously, do you think your idea of what judicial temperament is may change when you have ascended the bench and put on that black robe?

Mr. GRAAE. Are you addressing this question to me?

Senator MATHIAS. Well, I will address it to you first.

Mr. GRAAE. Senator, I am aware of the possibility that things get very tense, particularly in D.C. Superior Court. It is a court with an extraordinarily heavy caseload, particularly in the statutory courts and certainly in the criminal courts. The temptation is going to arise, no doubt, to be short and curt with someone who is perhaps slowing down what is already an overburdened docket. I think perhaps that is the circumstance in which good judgment and judicial temperament come into play, that that is when you have to exercise your best judgment and your greatest objectivity and your greatest level of restraint in the way you conduct yourself. I would hope that the definition I have given you is one I would be able to carry with me throughout my career as a judge. I recognize that it will be tested.

Senator MATHIAS. Well, as long as you recognize the pressure points you will probably be able to cope with them.

Mr. Mitchell.

Mr. MITCHELL. I have had that very question in my mind since being named by the President. I have wondered what would happen to me if I were to become a judge. I am not able to say with definiteness, but I have prayed over it and hoped that I will not change my basic character. I think that it has done me well throughout the years. So I have just about come to the conclusion that I am going to try to stay as I am, so to speak. I hope this doesn't appear to be saying that I am perfect, but I do feel that if I continue to identify with other people I will continue to go in the direction that I want my life to go.

So to answer your question, I don't know, but I am praying and hoping that I will not change my concept of the temperament and the attitude toward other people.

Senator MATHIAS. Thank you, Mr. Mitchell. Thank you both for your testimony here today.

Mr. GRAAE. Thank you, Senator. I just want to thank your staff and particularly Eileen Mayer for her assistance in preparing for this, and also Mr. Ira Shapiro.

Mr. MITCHELL. I similarly would like to thank these people for having cooperated with me in helping me to do what was necessary, and I appreciated the courtesy they showed me throughout the process.

Senator MATHIAS. Thank you. The committee is glad to hear that. That is the way we want it to be, and I am sure it is. But it is gratifying that you recognize it.

Let me ask you if there is anyone else in this room who has any information that they wish to present to the committee with respect to these nominations?

[No response.]

[The biographical and financial information submitted by Messrs. Mitchell and Graae follow:]

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

GEORGE W. MITCHELL

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)

Answer, My name is George Washington Mitchell, I have not used any former names.

Question 2. Address: List current residence address and mailing address.

Answer. My current residence address and my mailing address is 2243 Sudbury Road, N.W., Washington, D.C. 20012.

Question 3. Date and Place of Birth.

Answer. I was born on May 8, 1935 in Birmingham, Alabama.

Question 4. Marital Status: (Include maiden name of wife or husband's name.)

Answer. I am married to Gwendoline S. Mitchell. My wife's maiden name is Stephenson.

Question 5. Names and ages of children.

Answer. My children are George W. Mitchell, Jr., and Renneé Mitchell. George is 17 and Reneé is 21.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer: Greymount Elementary School, 1939–1950, I received a diploma.

Parker High School, 1950–1954. I received a diploma.

Howard University, 1954–1957. I received a Bachelor of Arts Degree.

Howard University, 1957–1960. I received a Bachelor of Laws Degree.

American University, 1957–1958. I did not receive a degree from American University.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. 8/60–8/61 United States Post Office, Clerk, Washington, D.C.

8/61–8/62 Veterans Administration, Adjuster, Washington, D.C.

1/62–8/62 United States Department of Labor, Lawyer, Washington, D.C.

Question 8. Government Experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. Chairman, Disciplinary Committee (Probable cause panel); District of Columbia Advisory Committee for the United States Commission on Civil Rights, Appeals Agent for Selective Service System; Hackers' License Appeal Board, Board of Directors of Neighborhood Legal Service Project.

Question 9. Business Relationships: List all positons held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. George W. Mitchell and Associates, P.C. I am the sole owner.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Answer. Chairman, Disciplinary Committee (Probable Cause Panel); President of the Shepherd Park Civil Association; President of the Howard Law Alumni Association of the Greater Washington Area; District of Columbia Advisory Committee for the United States Commission on Civil Rights, Appeals Agent for the Selective Service System, Hacker's License Appeal Board; Board of Directors of Neighborhood Legal Service Project.

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Answer. Unsuccessful candidate for School Board in the District of Columbia in 1968, and unsuccessful candidate for Delegate for the District of Columbia; unsuccessful candidate for District of Columbia City Counsel.

$500.00 to the campaign fund of Jimmy Carter.

$100.00 to the campaign fund of Walter E. Washington.

$150.00 to the campaign fund of Sylvania W. Woods, Jr.

Question 12. Honor and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Answer. Certificate of Appreciaton for services contributed to the Nation and the Selective Service System, awarded by President Richard M. Nixon on December 10, 1971; Alumnus of the year, April 1976; Certificate of Appreciation for services contributed to the Nation and the Selective Service System, awarded by President Gerald Ford on April 16, 1976.

Question 13. Published Writing: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. None.

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last five years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. None.

Question 15. Selection: a. Do you know why you were chosen for this nomination by the President?

b. What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a) No.

(b) I have actively practiced in all the Courts in this jurisdiction for the last 20 years. I am qualified by reason of education and experience.

B. FINANCIAL DATA (RETAINED IN COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connection with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. Yes.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. No.

Question 3. Do you have any plans, commitments or agreements after completing government to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. I will recuse myself from acting on any matter that I have previously served as a private attorney. In addition I have entered into an agreement, which is attached hereto, with Betty S. Walker, Esq., and Charles J. Baron, Esq. wherein I have sold my practice to them for $10,000.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potental conflicts of interest in the position to which you have been nominated.

Answer. None.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. None.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. Please be advised that I will resolve any conflicts that I may have as a Judge of the Superior Court, District of Columbia by rescuing myself of any involvement while on the Bench in the cases listed in Appendix A attached hereto. [Appendix A may be found in the committee files.]

Pursuant to the terms and conditions of the agreement thereto attached as Appendix A. I will sell my practice to Betty S. Walker and Charles J. Baron, Attorneys At Law, 1100 Sixth Street, N.W., Washington, D.C.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. I have never been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group.

I have been the subject of a complaint to the Disciplinary Committee for the District of Columbia twice. In each instance the complaints were dismissed.

(1) Mrs. Ester Portee filed a complaint suggesting that her matter was not being handled expeditiously. The complaint was dismissed and her matter was subsequently settled to her satisfaction. Mrs. Portee lives at 427 13th Street, N.E., Washington, D.C.

(2) Mrs. Celeste M. Lee filed a complaint alleging negligent and fee dispute. Similarly, this matter was dismissed. Mrs. Lee later came back to my office and I handled another matter for her. Mrs. Lee lives at 4802 Jay Street, N.E., Washington, D.C.

Question 2. Have you ever been investigated, arrested, or charged or held by any Federal, State or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense?

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. No.

Question 4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

F. QUESTIONS CONCERNING STATUTORY QUALIFICATIONS, PURSUANT TO DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970, SEC. 11–1501 (b) OF THE D.C. CODE AS AMENDED

Question 1. Are you a citizen of the United States?

Answer. Yes.

Question 2. Are you a member of the bar of the District of Columbia?

Answer. Yes.

Question 3. Have you been a member of the District of Columbia bar for at least five years? (Give year in which you became a member.)

Answer. Yes, I became a member of the District of Columbia bar on June 18, 1962.

Question 4. If the answer to #3 is "no,"

a. Are you a professor in a law school in the District of Columbia?

Answer. Not applicable.

b. Are you an attorney employed in the District of Columbia by the United States or the District of Columbia?

Answer. Not applicable.

c. Have you been eligible for membership in the bar of the District of Columbia for at least five years.

Answer. Not applicable.

d. Upon what grounds is that eligibility based?

Answer. Not applicable.

Question 5. Are you a bona fide resident of the District of Columbia?

Answer. Yes.

Question 6. Please state the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last 5 years.

Answer. 2243 Sudbury Road, N.W., Washington, D.C.

Question 7. Have you maintained an actual place of abode in such area for at least five years?

Answer. Yes.

Question 8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nomination Commission?

Answer. No.

Question 9. Have you been a member of either Commission within the last 12 months?

Answer. No.

G. STATUS OF TAX LIABILITY

Question 1. Would you state for the record whether all your taxes, Federal, State and local, are current as of this date?

Answer. Yes.

Question 2. Are you or any member of your immediate family presently involved in such controversy or litigation at any time in the past with any Federal, District of Columbia, state or local government?

Answer. No.

Question 3. Have you or any member of your immediate family ever been involved in such controversy or litigation at any time in the past with any Federal, District of Columbia, state of local government?

Answer. No.

Question 4. Have any tax liens, either Federal, District, state or local been filed against you or against any real property or personal property which you own either individually, jointly, or in partnership?

Answer. Yes, a lien for $102.74 was filed on September 7, 1976 and released on September 15, 1976. I had been in negotiation with the District of Columbia and indicated that it was my belief that I did not owe $102.74. Without notice to me, a lien was filed against me and I immediately paid the $102.74 in protest. The lien was on a business tax (not personal income), the taxes were paid and the District of Columbia claims that the taxes were paid late.

Question 5. Have your taxes always been paid on time?

Answer. Yes.

AFFIDAVIT

I, *George W. Mitchell, Esq.*, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

May 28, 1982

GEORGE W. MITCHELL.

_____.

Notary.

My commission expires: May 1, 1982.

STEFFEN W. GRAAE

A. BIOGRAPHICAL INFORMATION

Question 1. (Include any former names used.)

Answer. Steffen William Graae.

Question 2. Address: List current residence address and mailing address.

Answer. 150 North Carolina Avenue, S.E. Washington, D.C. 20003

Question 3. Date and Place of Birth.

Answer. Born in Copenhagen, Denmark on September 25, 1940.

Question 4. Marital Status: (Include maiden name of wife or husband's name.)

Answer. Married on August 13, 1966 to Cynthia Margaret Norris.

Question 5. Names and ages of children.

Answer. Jessica Winkel Graae, age 15.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer. Yale University, attended 1958–1962 and received B.A. Degree in 1962;

Oxford University, attended 1962–1964 and received M.A. Degree in 1969;

Georgetown University Law Center, attended 1970–1973 and received J.D. Degree in 1973.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer:

1964–1965—Research Analyst, Office of Policy Development, Federal Aviation Agency, Washington, D.C.;

1965–1966—Research Analyst, Georgetown Research Project, Atlantic Research Corporation, Washington, D.C.;

1966–1967—Legislative Assistant to Rep. Benjamin S. Rosenthal, U.S. Congress, Washington, D.C.;

7/67–9/68—International Relations Officer, Africa Bureau, Agency for International Development, Department of State, Washington, D.C.;

10/68–1/69—Assistant to Acting Director, Office of Economic Opportunity, Washington, D.C. Conducted survey and wrote report on OEO's program evaluations;

3/69–12/69—Consultant to National Commission on the Causes and Prevention of Violence, Washington, D.C. Did research, writing and editing on Commission reports;

Spring 1970—Consultant to Center for Human Systems, Inc., Washington, D.C. in developing management training programs;

1971–1972—Part-time employment during academic year as administrative assistant at the Public Law Education Institute, Washington, D.C.;

Summer 1972—Consultant to National Commission on Materials Policy. Did research and writing on economic growth and environmental pollution;

11/73–3/74—Attorney Advisor to D.C. Superior Court Committee on the Federal Rules of Evidence;

4/74–8/74—Law Clerk to Associate Judge John G. Penn, D.C. Superior Court, Washington, D.C.;

8/74–9/76—Partner in law firm of Clarke and Graae, 53 D Street, S.E., Washington, D.C.;

9/74–4/75—Director of study published in April 1975 by Joint D.C. Bar and Judicial Conference Committee Defense Services in the District of Columbia Paid under LEAA and D.C. Bar grant;

9/75–6/76—Adjunct Professor of Criminal Law (part-time in conjunction with law practice) at Georgetown University Law Center, Washington, D.C.;

10/76–12/79—Sole practitioner. During this period I served as consultant to D.C. Law Revision Commission, to Blackstone Institute, Washington, D.C., conducting research on prosecution of interstate auto thefts pursuant to LEAA grant, and to D.C. Bar's Committee on Appointment of Counsel in Criminal Cases (I still serve in this latter capacity);

1/80–Present—Member of law firm of Mirel & Graae, P.C., 918 16th Street, N.W., Washington, D.C., 20006.

Question 8. Government Experience: List any experience in, or association with Federal, State or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. See details in answer to question 7, above. I have served in the following government positions: Research Analyst, Federal Aviation Agency; Legislative Assistant to Rep. Benjamin S. Rosenthal; International Relations Officer, AID; Assistant to Acting Director, OEO; Consultant to National Commission on Causes and Prevention of Violence; Consultant to National Commission of Materials Policy; Attorney Advisor t D.C. Superior Court Committee on Federal Rules of Evidence; Law Clerk to Associate Judge John G. Penn, D.C. Superior Court; Consultant to D.C. Law Revision Commission.

Question 9. Business Relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. Partner in Clarke & Graae (1974–1976); Officer in Mirel & Graae, P.C. (1980 to present).

Question 10. Memberships: List all memberships and offices held in professional fraternal, scholarly, civic, charitable and other organizations.

Answer. District of Columbia Bar (member); Bar Association of the District of Columbia (member); American Bar Association (member); American Civil Liberties Union (former member); Washington Council of Lawyers (former member); New World Players—a D.C. Chamber Orchestra (on Board of Directors); Scroll & Key Society—Yale University (member).

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Answer. I am a registered Democrat, but have not been active as a contributor, officer, or candidate.

Question 12. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Answer. None.

Question 13. Published Writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. "District of Columbia Statutory and Case Law Annotated to the Federal Rules of Evidence"; Published by the Young Lawyers Section of the Bar Association of the District of Columbia; Copyright, 1976.

"Disorderly Conduct and Related Minor Offenses; Defense Strategies and Representation in the District of Columbia", with Peter Weisman. Published by Young Lawyers Section of the Bar Association of the District of Columbia; Copyright, 1975.

Comment: "Statutory Proposal on Inchoate Crimes," with Peter Weisman. 22 "Howard Law Journal" 217 (1979).

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. None.

Question 15. Selection: a. Do you know why you were chosen for this nomination by the President?

b. What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a.) I do not know specifically why I was nominated, but assume it was based on my experience as a trial attorney and my record of service to the Bar and the administration of justice.

(b.) I have extensive trial and appelate experience in both criminal and civil matters extending back to the beginning of my law practice in 1974. I am the author of several publications (listed in my answer to question 13, above) on legal questions directly relevant to the courts. I have served on many committees of the D.C. Bar (listed, in part, in my answer to question 7, above) dealing with the operations of the D.C. Superior Court, and I am intimately familiar with the criminal justice system in D.C. arising out of my consulting work in this area since 1974. I believe I have a combination of practical, scholarly, and professional experience that qualifies me for appointment to the D.C. Superior Court bench.

B. FINANCIAL DATA (RETAINED IN COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organization if you are confirmed by the Senate?

Answer. Yes.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. I have no present plans to pursue outside employment during my service as a judge, but would like to keep open the possibility of doing some teaching.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. I have substantial accounts receivable from clients I have represented over the last few years. I would still expect them to pay me what I am owed.

I have one contingency fee case (*Reginald Martin* v. *Robert Kelly, et al.*, D.C. Superior Court, CA No. 1101–80) which will not be tried before the late fall of 1982 at the earliest and, thus, would have to be transferred to another attorney in the event I am confirmed. I would expect to make an agreement with the attorney to whom I will transfer this case for a proportion of the potential recovery in light of the substantial effort I have put into this case since 1979.

All other extant cases I would transfer to other counsel without future compensation agreements.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. There are none to my knowledge.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. There are none to my knowledge.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. None.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. Should I be confirmed, I would obviously excuse myself from any cases in which I had any involvement.

Inasmuch as I have not yet transferred the case of *Martin* v. *Kelly*, referred to in answer to question 1, above, I do not have an agreement for compensation, but will provide the Committee with a copy when the transfer has been made.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. On April 15, 1981 Ms. Muriel Yasuna made a complaint to Bar Counsel about representation I had provided her in a case (*Yasuna* v. *Holloway*, CA No. 13117-79) tried in D.C. Superior Court on February 12, 1981. The suit involved her attempt to recover from Mr. Holloway $16,000 on a note that she alleged he had assumed in January 1964 when he purchased a building from her. The trial court dismissed her suit for insufficient evidence, and she thereupon complained to Bar Counsel that my representation had been negligent and incompetent. Her complaint was dismissed after investigation by Bar Counsel on May 27, 1981 with a finding that it had no basis.

Question 2. Have you ever been investigated, arrested, or charged or held by any Federal, State or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. No.

Question 4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. I cannot think of any.

F. QUESTIONS CONCERNING STATUTORY QUALIFICATIONS, PURSUANT TO DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970, SEC. 11-1501(b) OF THE D.C. CODE AS AMENDED

Question 1. Are you a citizen of the United States?

Answer. Yes.

Question 2. Are you a member of the bar of the District of Columbia?

Answer. Yes.

Question 3. Have you been a member of the District of Columbia bar for at least five years? (Give year in which you became a member.)

Answer. Yes. I was admitted to the D.C. Bar on December 7, 1973.

Question 4. If the answer to No. 3 is "no," . . .

Answer. Not applicable.

Question 5. Are you a bona fide resident of the District of Columbia?

Answer. Yes.

Question 6. Please state the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five years.

Answer. 150 North Carolina Avenue, S.E., Washington, D.C. 20003.

Question 7. Have you maintained an actual place of abode in such area for at least five years?

Answer. Yes.

Question 8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nomination Commission?

Answer. No.

Question 9. Have you been a member of either Commission within the last 12 months?

Answer. No.

G. STATUS OF TAX LIABILITY

Question 1. Would you state for the record whether all your taxes, Federal, state and local, are current as of this date?

Answer. Yes. All taxes are paid up to date.

Question 2. Are you or any member of your immediate family presently involved in any controversy or litigation with tax authorities of the Federal government, the District of Columbia, or any state or local governments?

Answer. No.

Question 3. Have you or any member of your immediate family ever been involved in such controversy or litigation at any time in the past with any Federal, District of Columbia, state or local government?

Answer. No.

Question 4. Have any tax liens, either Federal, District, state or local been filed against you or against any real property or personal property which you own either individually, jointly, or in partnership?

Answer. No.

Question 5. Have your taxes always been paid on time?

Answer. No. I recently discovered that I had failed to file my daughter's 1981 tax return. This has now been done, although I expect that I might be assessed penalties on the two amounts involved: $57 to U.S. and $16 to D.C.

AFFIDAVIT

I, Steffen Graae, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

STEFFEN GRAAE.
FRANCES J. MICHAEL,
Notary.

My commission expires: January 1, 1986.

Senator MATHIAS. The committee will stand adjourned subject to call of the Chair.

[Whereupon, at 9:50 a.m., the committee recessed, to reconvene subject to call of the Chair.]

○